

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

OCTOBER 18, 2011

#### CALL TO ORDER/NOTING OF QUORUM

Chairman Huskey called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson and Commissioner Sturtz. Superintendent Strittmatter and Executive Secretary Neal were also in attendance.

Jim Purucker, Lisa McKinney, Matt Brase, Tom Healy, John Barnett, Bart Herriman, Alvin King, K. Dutton, Mary Walker, Marc Carmichael, Mark Webb and Connie Vickery were present as observers.

#### DISPOSITION OF MINUTES

Commissioner Sturtz moved to approve the minutes that were submitted for the October 4, 2011 meeting. Vice Chairman Johnson seconded. The motion was unanimously approved.

#### HEARING JUDGE'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Hearing Judge Neal recommended the Commission approve the parties' agreed dispositions that were submitted for the October 18, 2011 meeting.

Vice Chairman Johnson moved to approve the parties' agreed dispositions that were submitted for the October 18, 2011 meeting. Commissioner Sturtz seconded. The motion was unanimously approved.

BR1646218 QING WANG – Hearing Judge Neal stated this was concerning an appeal hearing for an employee permit violation. The permittee, Ms. Wang, did not appear at the appeal hearing, but a few days later paid the fine. Therefore, the Hearing Judge recommended the Commission approve the withdrawal of the Findings of Fact.

Vice Chairman Johnson moved to uphold the Hearing Judge's recommendation. Commissioner Sturtz seconded. The motion was unanimously approved.

RR06-01878 NEWPORT, LLC – Hearing Judge Neal stated this permittee is currently incarcerated in the Boone County jail and; therefore, did not appear at the appeal hearing. A receiver has been appointed in this matter. The receiver appeared at the Commission and filed all paperwork to take over as the receiver. The intention of the receiver is to continue operation of the business to help satisfy all of the outstanding debts incurred by this permittee. Because of this new information, Hearing Judge Neal recommended this renewal be remanded to the local board.

Vice Chairman Johnson moved to remand this renewal to the local board. Commissioner Sturtz seconded. The motion was unanimously approved.

## **CONSIDERATION OF APPLICATIONS**

Commissioner Sturtz moved to approve and incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by our staff with the authority of the Commission. Vice Chairman Johnson seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permit applications for a new permit, which includes the tabled applications, or applications for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners. Vice Chairman Johnson seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permit applications for catering. Vice Chairman Johnson seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permits to be placed in escrow for not more than five years, which have been reviewed and recommended by a Commissioner as appropriate for escrow. Vice Chairman Johnson seconded. The motion was unanimously approved.

Four hundred ninety (490) permits approved for renewal, fifty-five (55) new and/or transfer permits approved, ten (10) permits approved for catering, four (4) permits approved for first year escrow, five (5) permits approved for second year escrow, two (2) permits approved for third year escrow, three (3) permits approved for fourth year escrow and three (3) permits approved for fifth year escrow.

## **RENEWAL LETTERS AND WAIVER OF FEES**

Vice Chairman Johnson moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Commissioner Sturtz seconded. The motion was unanimously approved.

## **APPLICATIONS FOR DISCUSSION**

DL43-28151 MAC'S CONVENIENCE STORES, LLC – Vice Chairman Johnson noted this is a new type 115 application with the local board voting two (2) to one (1) to approve.

Vice Chairman Johnson moved to approve the new permit. Commissioner Sturtz seconded. The motion was unanimously approved.

RR49-10970 KILROY'S BROAD RIPPLE, LLC – Vice Chairman Johnson noted this is a type 210 transfer of ownership and location application with the local board voting two (2) to one (1) to approve.

Vice Chairman Johnson stated there was no reason given for the one vote recommending denial of the application. Remonstrators and supporters were present at the local board meeting and written exhibits were also presented.

Remonstrator Tom Healy stated there were several neighborhood associations opposed to this permit and numerous individuals appeared before the local board stating the neighborhood does not want or

need this and there will be negative consequences if the transfer is granted. He also stated this location was granted a zoning variance in 1987 for use as a family restaurant, but this applicant has stated that in the future the operations will switch and become a tavern, which would be in violation of the variance. Mr. Healy requested the Commission remand this to the local board until the zoning issues are taken care of.

Attorney for the applicant, Matt Price, stated only one (1) neighborhood association appeared before the local board and not several as stated by Mr. Healy. He also said the zoning issues were discussed and considered by the local board prior to their voting on this matter. Lastly, Mr. Price noted that the request for remand by the remonstrators was just a way to delay this business that is trying to get open by the Super Bowl.

Vice Chairman Johnson moved to uphold the local board's recommendation and approve the transfers. Commissioner Sturtz seconded. The motion was unanimously approved.

DL49-28045 MAC'S CONVENIENCE STORES, LLC – Vice Chairman Johnson noted this is a new type 115 application with the local board voting four (4) to zero (0) to disapprove.

Vice Chairman Johnson stated the local board cited no need or desire for the services as reason for their recommendation of denial.

Vice Chairman Johnson moved to uphold the local board's recommendation to deny the new permit. Commissioner Sturtz seconded. The motion was unanimously approved.

DL49-28064 SPEEDWAY, LLC – Vice Chairman Johnson noted this is a new type 115 application with the local board voting three (3) to one (1) to approve.

Vice Chairman Johnson moved to uphold the local board's recommendation and approve the new permit. Commissioner Sturtz seconded. Motion was unanimously approved.

RR45-91097 CRESSMOOR NORTH, LLC – Vice Chairman Johnson noted this is a type 210 transfer of ownership and location application with the local board voting three (3) to one (1) to approve for one (1) year.

Vice Chairman Johnson stated the local board member who recommended denial was the Excise officer, who cited history of violations as reason for his recommendation.

Vice Chairman Johnson moved to uphold the local board's recommendation and approve for one (1) year. Commissioner Sturtz seconded. Motion was unanimously approved.

DL64-81376 NORTH STAR PETROLEUM, INC. D/B/A SOUTH SHORE LIQUORS – Vice Chairman Johnson noted this is a type 217 transfer of ownership and location with the local board voting four (4) to zero (0) to approve.

Vice Chairman Johnson moved to uphold the local board's recommendation and approve the transfers. Commissioner Sturtz seconded. The motion was unanimously approved.

DL45-27936 MOHAMMED CHATAT, D/B/A CENTRAL 21<sup>ST</sup> AVENUE FOOD MART – Vice Chairman Johnson noted this is a new type 115 application with the local board voting three (3) to zero (0) to disapprove.

Vice Chairman Johnson moved to uphold the local board's recommendation to deny the new permit. Commissioner Sturtz seconded. The motion was unanimously approved.

### **INACTIVE FILES**

INACTIVE FILES- Vice Chairman Johnson moved to make nineteen (19) permits inactive. Eleven (11) permits are not subject to auction and eight (8) permits are subject to auction. Commissioner Sturtz seconded. The motion was unanimously approved.

RR45-05573 REMBRANDT SPEAKEASY, INC. - Vice Chairman Johnson stated this permit was made inactive 6/7/11, due to non-renewal of the permit. There has been litigation regarding the ownership of this permit and that ownership has now been determined. The owner is requesting the permit be reactivated. All fees and paperwork due will be taken care of.

Vice Chairman Johnson moved to approve the reactivation. Commissioner Sturtz seconded. The motion was unanimously approved.

### **OLD BUSINESS**

No Old Business

### **NEW BUSINESS**

DL21-10755 TRI-COUNTY SPIRITS, INC. – Vice Chairman Johnson stated this permit was made inactive 10-20-09. Renewals were not filed. Two of the three stockholders (father and daughter) were killed in a car crash and the remaining stockholder (son/brother) has not been able to run the establishment. There has been litigation regarding this matter and the previous owner would like to have the permit back and is willing to pay the tax debt and all fees due and, therefore, requests the permit be reactivated.

Vice Chairman Johnson moved to approve the reactivation pending fees, taxes and paperwork are filed. Commissioner Sturtz seconded. The motion was unanimously approved.

### **POLICY DETERMINATIONS**

No Policy Determinations

### **ANNOUNCEMENTS**

No Announcements

## **ADJOURNMENT**

Commissioner Sturtz moved to adjourn the meeting. Vice Chairman Johnson seconded. The motion was unanimously approved.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

---

ALEX HUSKEY, CHAIRMAN

---

DAVID JOHNSON, VICE CHAIR

---

DALE STURTZ, COMMISSIONER

---

FRANK GUTHRIE, COMMISSIONER